



General Assembly

February Session, 2002

Amendment

LCO No. 2970

SB0014002970SD0

Offered by:

SEN. PRAGUE, 19th Dist.

To: Subst. Senate Bill No. 140

File No. 173

Cal. No. 138

"AN ACT CONCERNING ADMISSIONS TO NURSING HOMES."

1 After line 21, insert the following:

2 "Sec. 3. Section 17b-407 of the general statutes is repealed and the
3 following is substituted in lieu thereof (*Effective October 1, 2002*):

4 (a) Any physician or surgeon licensed under the provisions of
5 chapter 370, any resident physician or intern in any hospital in this
6 state, whether or not so licensed, and any registered nurse, licensed
7 practical nurse, medical examiner, dentist, optometrist, chiropractor,
8 podiatrist, social worker, clergyman, police officer, pharmacist,
9 physical therapist, long-term care facility administrator, nurse's aide or
10 orderly in a long-term care facility, any person paid for caring for a
11 patient in a long-term care facility, any staff person employed by a
12 long-term care facility and any person who is a sexual assault
13 counselor or a battered women's counselor as defined in section
14 52-146k who has reasonable cause to suspect or believe that a resident
15 in a long-term care facility has been abused, neglected, exploited or

16 abandoned, or is in a condition that is the result of such abuse, neglect,
17 exploitation or abandonment, shall, [within five calendar days] not
18 later than forty-eight hours after such suspicion or belief arose, report
19 such information or cause a report to be made in any reasonable
20 manner to the Commissioner of Social Services pursuant to chapter
21 319dd. Any person required to report under the provision of this
22 section who fails to make such report within the prescribed time
23 period shall be [fined not more than five hundred dollars] guilty of a
24 class A misdemeanor.

25 (b) Such report shall contain the name and address of the long-term
26 care facility, the name of the involved resident, information regarding
27 the nature and extent of the abuse, neglect, exploitation or
28 abandonment and any other information which the reporter believes
29 might be helpful in an investigation of the case and for the protection
30 of the resident.

31 (c) Any other person having reasonable cause to believe that a
32 resident in a long-term care facility is being, or has been, abused,
33 neglected, exploited or abandoned, or any person who wishes to file
34 any other complaint regarding a long-term care facility, shall report
35 such information in accordance with subsection (b) of this section in
36 any reasonable manner to the Commissioner of Social Services who
37 shall inform the resident of the services of the Office of the Long-Term
38 Care Ombudsman.

39 (d) Such report or complaint shall not be deemed a public record,
40 and shall not be subject to the provisions of section 1-210, as amended.
41 Information derived from such reports or complaints for which
42 reasonable grounds are determined to exist after investigation as
43 provided for in section 17b-408, as amended by this act, including the
44 identity of the long-term care facility, the number of complaints
45 received, the number of complaints substantiated and the types of
46 complaints, may be disclosed by the Commissioner of Social Services,
47 except that in no case shall the name of the resident or the complainant
48 be revealed, unless such person specifically requests such disclosure or

49 unless a judicial proceeding results from such report or complaint.

50 (e) [Anyone] Any person who makes a report or complaint pursuant
51 to this section or who testifies in any administrative or judicial
52 proceeding arising from the report shall be immune from any civil or
53 criminal liability on account of such report or complaint or testimony,
54 except for liability for perjury, unless such person acted in bad faith or
55 with malicious purpose.

56 (f) The person filing a report or complaint pursuant to the
57 provisions of this section shall be notified of the findings of any
58 investigation conducted by the Commissioner of Social Services, upon
59 request.

60 (g) The Commissioner of Social Services shall maintain a registry of
61 the reports received, the investigations made, the findings and the
62 actions recommended and taken.

63 Sec. 4. (NEW) (*Effective October 1, 2002*) Any direct care provider in a
64 long-term care facility, who is a mandated reporter under section 17b-
65 407 of the general statutes, as amended by this act, who has reason to
66 believe that a resident in a long-term care facility has been abused,
67 neglected, exploited or abandoned or is in a condition that is the result
68 of such abuse, neglect, exploitation or abandonment, shall immediately
69 cause a written report to be made and delivered to such direct care
70 provider's supervisor. Such report shall contain the date such written
71 report was made and delivered, the name and address of the long-term
72 care facility, the name of the direct care provider, the name of the
73 direct care provider's supervisor, the name of the resident, information
74 regarding the nature and extent of the abuse, neglect, exploitation or
75 abandonment, and any other information that the direct care provider
76 believes might be helpful in an investigation of the case and for the
77 protection of the resident. Such written report of abuse, neglect,
78 exploitation or abandonment shall be made a part of the resident's
79 medical records.

80 Sec. 5. Section 17b-408 of the general statutes is repealed and the

81 following is substituted in lieu thereof (*Effective October 1, 2002*):

82 Upon receipt of a report or complaint as provided in section
83 17b-407, as amended, the commissioner shall determine immediately
84 whether there are reasonable grounds for an investigation. If it is
85 determined that reasonable grounds do not exist for an investigation,
86 the complainant or the person making the report shall be notified of
87 this determination within five working days after the receipt of such
88 complaint or report. If such reasonable grounds are found, the
89 commissioner shall investigate such report or complaint within ten
90 working days thereafter. The commissioner shall complete an
91 investigation and make a report of the findings, within fifteen working
92 days after the receipt of the complaint or report. If the investigation
93 indicates that there is a possible violation of section 19a-533, 19a-535,
94 or 19a-537, as amended, the commissioner shall refer the report or
95 complaint together with a report of any investigation the
96 commissioner has undertaken to the Department of Public Health for
97 action as appropriate. If the investigation indicates that there is a
98 possible violation of the provisions of the Public Health Code with
99 respect to licensing requirements, the commissioner shall refer the
100 report or complaint, together with a report of the commissioner's
101 investigation, to the Commissioner of Public Health for appropriate
102 action. If no violation of the Public Health Code is indicated, the
103 commissioner shall take whatever action the commissioner deems
104 necessary, and shall notify the complainant or the person making the
105 report, of the action taken within fifteen working days after receipt of
106 the complaint or report. If the investigation indicates that a person has
107 abused, neglected, exploited or abandoned a resident in a long-term
108 care facility, the commissioner shall refer such information in writing
109 to the Chief State's Attorney or the Chief State's Attorney's designee
110 who shall conduct such further investigation, if any, as deemed
111 necessary and shall determine whether criminal proceedings should be
112 initiated against such person in accordance with applicable state law.

113 Sec. 6. Section 17b-451 of the general statutes, as amended by section
114 1 of public act 01-209, is repealed and the following is substituted in

115 lieu thereof (*Effective October 1, 2002*):

116 (a) Any physician or surgeon licensed under the provisions of
117 chapter 370, any resident physician or intern in any hospital in this
118 state, whether or not so licensed, any registered nurse, any nursing
119 home administrator, nurse's aide or orderly in a nursing home facility,
120 any person paid for caring for a patient in a nursing home facility, any
121 staff person employed by a nursing home facility, any patients'
122 advocate and any licensed practical nurse, medical examiner, dentist,
123 optometrist, chiropractor, podiatrist, social worker, clergyman, police
124 officer, pharmacist, psychologist or physical therapist, who has
125 reasonable cause to suspect or believe that any elderly person has been
126 abused, neglected, exploited or abandoned, or is in a condition which
127 is the result of such abuse, neglect, exploitation or abandonment, or
128 who is in need of protective services, shall, [within five calendar days]
129 not later than forty-eight hours after such suspicion or belief arose,
130 report such information or cause a report to be made in any reasonable
131 manner to the Commissioner of Social Services or to the person or
132 persons designated by the commissioner to receive such reports. Any
133 person required to report under the provisions of this section who fails
134 to make such report shall be [fined not more than five hundred
135 dollars] guilty of a class A misdemeanor.

136 (b) Such report shall contain the name and address of the involved
137 elderly person, information regarding the nature and extent of the
138 abuse, neglect, exploitation or abandonment, and any other
139 information which the reporter believes might be helpful in an
140 investigation of the case and the protection of such elderly person.

141 (c) Any other person having reasonable cause to suspect or believe
142 that an elderly person is being, or has been, abused, neglected,
143 exploited or abandoned, or who is in need of protective services may
144 report such information in any reasonable manner to the commissioner
145 or the commissioner's designee.

146 (d) Any person who makes any report pursuant to sections 17b-450

147 to 17b-461, inclusive, as amended by this act, or who testifies in any
148 administrative or judicial proceeding arising from such report shall be
149 immune from any civil or criminal liability on account of such report
150 or testimony, except for liability for perjury, unless such person acted
151 in bad faith or with malicious purpose.

152 (e) For the purposes of sections 17b-450 to 17b-461, inclusive, as
153 amended by this act, the treatment of any elderly person by a Christian
154 Science practitioner, in lieu of treatment by a licensed practitioner of
155 the healing arts, or the refusal of treatment by an elderly person for
156 religious reasons shall not of itself constitute grounds for the
157 implementation of protective services.

158 Sec. 7. (NEW) (*Effective October 1, 2002*) Any direct care provider
159 who is a mandated reporter under section 17b-451 of the general
160 statutes, as amended by this act, who has reason to believe that an
161 elderly person has been abused, neglected, exploited or abandoned or
162 is in a condition that is the result of such abuse, neglect, exploitation or
163 abandonment, or who is in need of protective services, shall
164 immediately cause a written report to be made and delivered to such
165 direct care provider's supervisor. Such report shall contain the date
166 such written report was made and delivered, the name and address of
167 the elderly person, the name of the direct care provider, the name of
168 the direct care provider's supervisor, information regarding the nature
169 and extent of the abuse, neglect, exploitation or abandonment, and any
170 other information that the direct care provider believes might be
171 helpful in an investigation of the case and the protection of such
172 elderly person. Such written report of abuse, neglect, exploitation or
173 abandonment shall be made a part of such elderly person's medical
174 records.

175 Sec. 8. Section 17b-460 of the general statutes is repealed and the
176 following is substituted in lieu thereof (*Effective October 1, 2002*):

177 If as a result of any investigation initiated under the provisions of
178 sections 17b-450 to 17b-461, inclusive, as amended by this act, a

179 determination is made that a caretaker or other person has abused,
180 neglected, exploited or abandoned an elderly person, such information
181 shall be referred in writing to the [appropriate office of the state's
182 attorney, which] Chief State's Attorney or the Chief State's Attorney's
183 designee who shall conduct such further investigation, if any, [is] as
184 deemed necessary and shall determine whether criminal proceedings
185 should be initiated against such caretaker or other person, in
186 accordance with applicable state law.

187 Sec. 9. (NEW) (*Effective October 1, 2002*) No person shall discharge,
188 or in any manner discriminate or retaliate against, an employee for
189 making, in good faith, a report pursuant to section 17b-451 of the
190 general statutes, as amended by this act, or for testifying in any
191 administrative or judicial proceeding arising from such report, unless
192 such employee abused, neglected, exploited or abandoned the elderly
193 person.

194 Sec. 10. (NEW) (*Effective October 1, 2002*) No nursing home facility
195 shall discharge, or in any manner discriminate or retaliate against, a
196 resident of such facility for making, in good faith, a report pursuant to
197 section 17b-451 of the general statutes, as amended by this act, or for
198 testifying in any administrative or judicial proceeding arising from
199 such report."